

193872

STATE OF SOUTH CAROLINA

(Caption of Case)

Application of Alpine Utilities, Inc. for  
Adjustment of Rates and Charges for the  
Provision of Sewer Service and Establishment  
of Additional Rate and Charges

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

## COVER SHEET

DOCKET

NUMBER: 2008 - 190 - S

(Please type or print)

Submitted by: John M.S. Hoefer, Esquire

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

## DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition☐ Request for item to be placed on Commission's Agenda expeditiously☐ Other:

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification	
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery	
<input checked="" type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation	
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input checked="" type="checkbox"/> Other: Reply to Response	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	to Objection	
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		

Print Form

Reset Form

**WILLOUGHBY & HOEFER, P.A.**

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TRACEY C. GREEN  
SPECIAL COUNSEL

\*ALSO ADMITTED IN TX

July 15, 2008

**VIA HAND-DELIVERY**

The Honorable Charles L.A. Terreni  
Chief Clerk/Administrator  
**Public Service Commission of South Carolina**  
101 Executive Center Drive  
Columbia, South Carolina 29210

RECEIVED  
2008 JUL 15 PM 2:16  
SC PUBLIC SERVICE  
COMMISSION

RE: Application of Alpine Utilities, Inc. for Adjustment of Rates and Charges for the  
Provision of Sewer Service and Establishment of Additional Rates and Charges;  
Docket No. 2008-190-S

Dear Mr. Terreni:

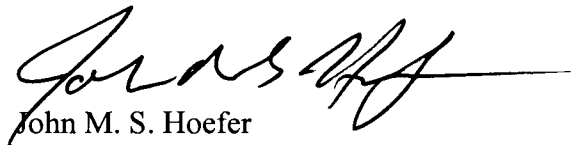
Enclosed for filing on behalf of Alpine Utilities, Inc. are the original and ten (10) copies of its Reply to Response to Answer in Opposition and Objection to the Petition to Intervene of Jim and Carolyn Cook in the above-referenced matter. By copy of this letter, I am serving a copy of these documents upon the Office of Regulatory Staff and counsel for Petitioners and enclose a Certificate of Service to that effect.

I would appreciate your acknowledging receipt of this Reply by date-stamping the extra copy that is enclosed and returning the same to me via our courier.

If you have any questions, or if you need any additional information, please do not hesitate to contact me.

Sincerely,

**WILLOUGHBY & HOEFER, P.A.**

  
John M. S. Hoefer

JMSH/cgc  
Enclosures

The Honorable Charles L.A. Terreni

July 15, 2008

Page 2

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cc: Nanette S. Edwards, Esquire (via electronic and first class mail)  
Richard L. Whitt, Esquire (via electronic and first class mail)

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

**DOCKET NO. 2008-190-S**

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COMMISSION

IN RE:

Application of Alpine Utilities,  
Inc. for adjustment of rates and  
charges for the provision of sewer  
service and the establishment of  
additional rates and charges.

**APPLICANT'S REPLY TO RESPONSE  
TO ANSWER IN OPPOSITION AND  
OBJECTION TO PETITION TO  
INTERVENE**

Applicant, Alpine Utilities, Inc. ("Alpine" or "Company"), by and through its undersigned counsel, submits the within Reply to the July 11, 2008, Response of Jim Cook and Carolyn Cook (collectively, "Petitioners") to Applicant's Answer in Opposition and Objection to the Petition to Intervene ("Petition") in the above-captioned matter. In that regard, Alpine would respectfully show unto this Honorable Commission as follows:

1. The Petitioners' response to Applicant's challenge to their standing to intervene is predicated upon the assumption that Petitioners stood in the shoes of Happy Rabbit, a South Carolina Limited Partnership ("Happy Rabbit"), at the time their Petition was filed. See Response at ¶1 ("Intervenors had standing to file their Petition ... because they are General Partners of Happy Rabbit...owners and operators of Windridge Townhomes;" "[t]his response relates back to, and incorporates by reference, Intervenor's (*sic*) Petition to Intervene"). Similarly, Petitioners seek to have the Commission reform their Petition to recognize their standing based upon this assumption. See Response at ¶5 ("Intervenors ...should be denominated

as Intervenor James C. Cook and Carolyn Cook, General Partners of Happy Rabbit, a South Carolina Limited Partnership, owners and operators of Windridge Townhomes”). However, this assumption is incorrect as a matter of law and therefore cannot create standing on the part of Petitioners. To the contrary, “[a] partnership is an entity which is separate and distinct from the persons who compose it.” *Lane v. Krein*, 297 S.C. 133, 134, 375 S.E.2d 351, 353 (Ct. App. 1988). Petitioners are therefore not Happy Rabbit and thus had no standing to intervene in this matter on its behalf. The Petition should therefore be denied without more.

2. Applicant appreciates the clarification that the Petition was not intended to be filed on behalf of the tenants of Windridge Townhomes and this eliminates any issue in regard to unauthorized representation of such persons. See Response at ¶2. This clarification does, however, beg the question of why Petitioners mentioned said tenants in the Petition, as none of them are customers of the Applicant.

3. Applicant submits that the Petitioners’ assertion that **they** need to be represented is also incorrect as a matter of law. See Response at ¶3. The pertinent Commission regulation<sup>1</sup>, cited in Applicant’s answer and objection but not mentioned in the Response, makes clear that individuals may represent themselves. Although, “it is the longstanding practice of this Commission to notify lay[persons] of the need to retain counsel to proceed with Commission filings”, that practice has application only where such persons have intervened on behalf of a person or entity other than themselves. Here, the Petitioners have sought to intervene on behalf of themselves in their individual capacity and not on behalf of the separate entity Happy Rabbit. And, even though the Petitioners are not required to have counsel represent them because they

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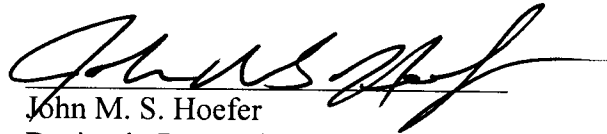
<sup>1</sup> 26 S.C. Code Ann. Regs. R. 103-804.T (Supp. 2007)

are individuals, the retention of counsel does not confer standing upon them to intervene in this matter as required by Commission Rule 103-825A.3(a).

4. Accordingly, and contrary to the Petitioners' assertion otherwise, the Applicant's objection is not mooted by the retention of counsel – either on behalf of the Petitioners or on behalf of Happy Rabbit. As to the former, their representation by counsel would make no difference as to their standing to intervene inasmuch as they have not disputed (a) that Happy Rabbit is the owner of the Windridge Townhomes or (b) that the Petitioners themselves are not customers of Applicant. As to the latter, Happy Rabbit has not filed any petition to intervene in this matter. When and if a petition to intervene is filed by Happy Rabbit, the Commission may then consider whether such an intervention is cognizable after notice and an opportunity to be heard is provided to the Applicant.

WHEREFORE, having fully set forth its Reply to the Petitioners' Response, the Applicant requests that the Petition to Intervene be denied, that the relief sought in the Petitioners' Response be denied, and that Applicant be granted such other and further relief by the Commission to the Applicant as is just and proper.

[SIGNATURE PAGE FOLLOWS]



John M. S. Hoefer

Benjamin P. Mustian

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Attorneys for Alpine Utilities, Inc.

Columbia, South Carolina

This 15<sup>th</sup> day of July, 2008

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2008-190-S**

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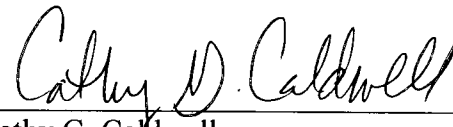
IN RE: )  
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for Adjustment of Rates and Charges )  
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and Establishment of Additional Rates )  
and Charges. )  
\_\_\_\_\_ )

**CERTIFICATE OF SERVICE**

This is to certify that I have caused to be served this day one (1) copy of the **Applicant's Reply to Response to Answer in Opposition and Objection to Petition to Intervene** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Nanette S. Edwards, Esquire  
**Office of Regulatory Staff**  
Post Office Box 11263  
Columbia, South Carolina 29211

Richard L. Whitt, Esquire  
**Austin & Rogers, P.A.**  
Post Office Box 11716  
Columbia, SC 29201

  
\_\_\_\_\_  
Cathy G. Caldwell

Columbia, South Carolina  
This 15<sup>th</sup> day of July, 2008.